

REMARKS

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-22 and 39-40 are now pending in this application. No claims are amended, added or cancelled. No new matter was added.

I. Interview Summary

Applicants appreciate the courtesy extended by the examiner in conducting a telephone interview with the undersigned representative on 11/16/05. During the interview, the examiner indicated that there is a following typo on page 2 of the final Office Action: the claims are rejected over Laskaris et al. (US 6,198,371) in view of Kotani et al. (US 5,861,574) rather than over Laskraris et al. in view of Kim and Aoki. The examiner also requested that applicants submit a response distinguishing the Laskaris et al. patent (US 6,198,371).

II. §103(a) Rejection – Laskaris et al. Is Not Prior Art Under § 103(a)

Claims 1, 7-11, 14, 19-21 and 39 are rejected under §103(a) over Laskaris et al. (US 6,198,371) in view of Kotani et al. (US 5,861,574). Claims 2-4, 12-13, 15-17 and 22 are rejected under §103(a) over Laskaris et al. (US 6,198,371) and Kotani in view of Ohsaki et al. (US 6,202,492). Claims 5-6 and 18 are rejected under §103(a) over Laskaris et al. (US 6,198,371) and Kotani in view of Braun et al. (US 4,781,363). Claim 40 is rejected under §103(a) over Laskaris et al. (US 6,198,371) and Kotani in view of Aoki et al. (US 2002/0190827). These rejections are respectfully traversed.

Laskaris et al. is not prior art with respect to the present application under 35 U.S.C. 103(a) as provided in 35 U.S.C. 103(c).

35 U.S.C. 103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The present application and the Laskaris et al. patent, at the time the invention was made, were both under an obligation to be assigned to the General Electric Company.¹ Thus, the present application and Laskaris et al. are commonly assigned.

The present application was filed on September 13, 2001. However, on 3/31/05, applicants submitted a Rule 131 Declaration of Yu Wang to establish an actual reduction to practice date of the invention before October 30, 2000. Thus, the effective date of the present application is prior to October 30, 2000.

The Laskaris et al. patent published on March 6, 2001. Therefore, the Laskaris et al. patent is not available as prior art under 35 U.S.C. 102(a) because it was published after the effective date of the present application established by Mr. Wang's Declaration.

Furthermore, the Laskaris et al. patent's filing date cannot be used as its prior art date in a § 103(a) obviousness rejection as provided in § 103(c): "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section." In other words, since Laskaris et al. only qualifies as a § 102(e)-type prior art against the present application, it cannot be used in a § 103(a) obviousness rejection.

¹ The face of the Laskaris et al. patent states that it is assigned to the General Electric Company. The present application is also assigned to the General Electric Company, as evidenced by an assignment recorded at reel/frame 012511/0264.

Therefore, Laskaris et al. is not prior art which can be used in a § 103(a) prior art rejection as provided in § 103(c). Applicants request that the rejection be withdrawn.

III. Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable consideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 11/30/05

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.